

§ 327.4

32 CFR Ch. I (7–1–03 Edition)

Counsel. Ensures that all denied requests for information are released by the DeCA Initial Denial Authority.

(6) Publishes instructions to contractors that:

(i) Provide DeCA Privacy program guidance to their personnel who solicit, award, or administer government contracts;

(ii) Inform prospective contractors of their responsibilities regarding the DeCA Privacy Program; and

(iii) Establish an internal system of contractor performance review to ensure compliance with DeCA's Privacy program.

(iv) Prepare and submit System Notices to the Defense Privacy Office for publication in the FEDERAL REGISTER.

(7) Maintain Privacy Case files and records of disclosure accounting.

(8) Submit the DeCA Annual Privacy Act Report (RCS: DD-DA&M(A)1379) to the Defense Privacy Office.

(c) *DeCA Directorates/Staff Offices.* (1) Provide response and the information requested to the PA Officer for release to the individual.

(2) In the event the information is to be denied release, the requested information and rationale for denial will be forwarded to the PA Officer for denial determination.

(d) *Regions.* Regional Directors will appoint a Regional PA Coordinator who will maintain suspense control of PA actions, prepare documentation to the OPR for response, forward the information to the DeCA PA Officer for release determination, and notify the requester that the response will be received from the DeCA PA Officer using the format in Appendix A to this part.

(e) *DeCA Field Operating Activities (FOAs).* (1) Upon receipt of a PA request that has not been received from the DeCA PA Officer, notify the DeCA PA Officer within 2 days.

(2) Collect all information available and forward to the DeCA PA Officer. If the requested information is not available, provide the DeCA PA Officer the rationale to respond to the requester.

(f) *Central Distribution Centers (CDCs) and Commissaries.* (1) Upon receipt of a PA request, not received from the Region Coordinator, notify the Region Coordinator within 2 days.

(2) Collect all information available and forward it to the Region Coordinator for submission to DeCA PA Officer. If requested information is not available, provide the Region Coordinator the rationale so they can prepare a response to the DeCA PA Officer. If the information is available but determined to be exempt, provide the Region Coordinator with the requested information and specific reasons why the request should be denied. The Region Coordinator will formalize a reply to the DeCA PA Officer, forwarding requested information and reasons for denial. The DeCA PA Officer will prepare the response to the requester with coordination by the General Counsel and signature by the IDA.

§ 327.4 Definitions.

Access. The review of a record of a copy of a record or parts thereof in a system of records by any individual.

Agency. For the purposes of disclosing records subject to the Privacy Act among DoD Components, the Department of Defense is considered a single agency. For all other purposes to include applications for access and amendment, denial of access or amendment, appeals from denials, and record keeping as regards release to non-DoD agencies; each DoD Component is considered an agency within the meaning of the Privacy Act.

Computer room. Any combination of electronic hardware and software integrated in a variety of forms (firmware, programmable software, hard wiring, or similar equipment) that permits the processing of textual data. The equipment contains device to receive information and other processors with various capabilities to manipulate the information, store and provide input.

Confidential source. A person or organization who has furnished information to the federal government under an express promise that the person's or the organization's identity will be held in confidence or under an implied promise of such confidentiality if this implied promise was made before September 27, 1975.

Disclosure. The transfer of any personal information from a system of records by any means of communication (such as oral, written, electronic,

mechanical, or actual review) to any person, private entity, or government agency, other than the subject of the record, the subject's designated agent or the subject's legal guardian.

Federal Register system. Established by Congress to inform the public of interim, proposed, and final regulations or rulemaking documents having substantial impact on the public. In this case, DeCA directives have the same meaning as regulations or rulemaking documents. The secondary role of the Federal Register system is to publish notice documents of public interest.

Individual. A living person who is a citizen of the United States or an alien lawfully admitted for permanent residence. The parent of a minor or the legal guardian of any individual also may act on behalf of an individual. Corporations, partnerships, sole proprietorships, professional groups, businesses, whether incorporated or unincorporated, and other commercial entities are not "individuals."

Individual access. Access to information pertaining to the individual by the individual or his or her designated agent or legal guardian.

Law enforcement activity. Any activity engaged in the enforcement of criminal laws, including efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities.

Maintain. Includes maintain, collect, use or disseminate.

Official use. Within the context of this part, this term is used when officials and employees of a DoD Component have a demonstrated need for the use of any record or the information contained therein in the performance of their official duties, subject to DoD 5200.1-R,² "DoD Information Security Program Regulation."

Personal information. Information about an individual that identifies, relates or is unique to, or describes him or her; e.g., a social security number, age, military rank, civilian grade, marital status, race, salary, home/office phone numbers, etc.

Privacy Act. The Privacy Act of 1974, as amended, (5 U.S.C. 552a).

Privacy Act request. A request from an individual for notification as to the existence of, access to, or amendment of records pertaining to that individual. These records must be maintained in a system of records.

Member of the public. Any individual or party acting in a private capacity to include federal employees or military personnel.

Record. Any item, collection, or grouping of information, whatever the storage media (e.g., paper, electronic, etc.), about an individual that is maintained by a DoD Component, including but not limited to, his or her education, financial transactions, medical history, criminal or employment history and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

Risk assessment. An analysis considering information sensitivity, vulnerabilities, and the cost to a computer facility or word processing activity in safeguarding personal information processed or stored in the facility or activity.

Routine use. The disclosure of a record outside the Department of Defense for a use that is compatible with the purpose for which the information was collected and maintained by the Department of Defense. The routine use must be included in the published system notice for the system of records involved.

Statistical record. A record maintained only for statistical research or reporting purposes and not used in whole or in part in making determinations about specific individuals.

System manager. The DoD Component official who is responsible for the operation and management of a system of records.

System of records. A group of records under the control of a DoD Component from which personal information is retrieved by the individual's name or by some identifying number, symbol, or other identifying particular assigned to an individual.

²Copies may be obtained: <http://www.whs.osd.mil/corres.htm>.

Word processing system. A combination of equipment employing automated technology, systematic procedures, and trained personnel for the primary purpose of manipulating human thoughts and verbal or written or graphic presentations intended to communicate verbally or visually with another individual.

Word processing equipment. Any combination of electronic hardware and computer software integrated in a variety of forms (firmware, programmable software, hard wiring, or similar equipment) that permits the processing of textual data. Generally, the equipment contains a device to receive information, a computer-like processor with various capabilities to manipulate the information, a storage medium, and an output device.

§ 327.5 Systems of records.

(a) *System of records.* To be subject to the provisions of this part, a “system of records” must:

(1) Consist of “records” that are retrieved by the name of an individual or some other personal identifier, and

(2) Be under the control of DeCA.

(b) *Retrieval practices.* Records in a group of records that may be retrieved by a name or personal identifier are not covered by this part even if the records contain personal data and are under the control of DeCA. The records MUST BE, in fact, retrieved by name or other personal identifier to become a system of records for DeCA.

(c) *Relevance and necessity.* Only those records that contain personal information which is relevant and necessary to accomplish a purpose required by Federal statute or an Executive Order will be maintained by DeCA.

(d) *Authority to establish systems of records.* Director, DeCA has the authority to establish systems of records; however, each time a system of records is established, the Executive Order or Federal statute that authorizes maintaining the personal information must be identified.

(1) DeCA will not maintain any records describing how an individual exercises his or her rights guaranteed by the First Amendment of the U.S. Constitution.

(2) These rights include, but are not limited to, freedom of religion, freedom of political beliefs, freedom of speech, freedom of the press, the right to assemble, and the right to petition.

(e) *System manager’s evaluation.* Systems managers, along with the DeCA Privacy Officer, shall evaluate the information to be included in each new system before establishing the system and evaluate periodically the information contained in each existing system of records for relevancy and necessity. Such a review will also occur when a system notice amendment or alteration is prepared. Consider the following:

(1) The relationship of each item of information retained and collected to the purpose for which the system is maintained.

(2) The specific impact on the purpose or mission of not collecting each category of information contained in the system.

(3) The possibility of meeting the informational requirements through use of information not individually identifiable or through other techniques, such as sampling.

(4) The length of time each item of personal information must be retained.

(5) The cost of maintaining the information.

(6) The necessity and relevancy of the information to the purpose for which it was collected.

(f) *Discontinued information requirements.* (1) When notification is received to stop collecting any category or item of personal information, the DeCA PA Officer will issue instructions to stop immediately and also excise this information from existing records, when feasible, and amend existing notice.

(2) Disposition of these records will be provided by the DeCA PA Officer in accordance with the DeCA Filing System.³

(g) *Government contractors.* (1) When DeCA contracts for the operation or maintenance of a system of records or a portion of a system of records by a contractor, the record system or the portion affected are considered to be

³Copies may be obtained: Defense Commissary Agency, ATTN: FOIA/Privacy Officer, 1300 E. Avenue, Fort Lee, VA 23801-1800.